

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CURTIS E. BLACKWELL, II,
Plaintiff,

Case No. 20-cv-11493
Hon. Sean F. Cox
Magistrate Judge David R. Grand

v.

JONES DAY LAW FIRM, et.al.,
Defendants.

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**PLAINTIFF CURTIS BLACKWELL'S NOTICE OF VOLUNTARY
DISMISSAL OF ALL CLAIMS AGAINST DEFENDANTS BILL BEEKMAN
AND MARK DANTONIO PURSUANT TO FED.R.CIV.P. 41(a)(1)(A)(i).**

NOW COMES PLAINTIFF, CURTIS E. BLACKWELL, II
(**“Plaintiff”**), by and through his attorney, ANDREW A. PATERSON,
and for his Notice of Voluntary Dismissal of All Claims Against
Defendants Bill Beekman and Mark Dantonio Pursuant to Fed.R.Civ.P.
41(a)(1)(A)(i), states the following:

On July 20, 2020, Plaintiffs filed a four-count amended complaint
against the Defendants. (*See* Am. Compl., ECF No. 6). As of the date
and time of the filing of this notice, Defendants Bill Beekman and Mark
Dantonio have not filed an answer or a motion for summary judgment.
Additionally, as of the date and time of the filing of this notice, the
Court has not entered a final judgment with respect to the claims
pleaded and alleged by Plaintiff against Defendants Bill Beekman and
Mark Dantonio.¹

¹ In *Aamot v Kassel*, 1 F.3d 441, at 444 (6th Cir. 1993), the Sixth Circuit Court of Appeals unequivocally rejected the position that a pending motion to dismiss bars voluntary dismissal. The Sixth Circuit opined that the "[Rule 41(a)] language unambiguously requires a defendant, in order to make plaintiff put his money where his mouth is, to serve plaintiff with a summary judgment motion or an answer." *See also Rouse v Caruso*, No. 06-10961, 2007 WL 909600, at *3 (E.D. Mich. Mar. 23, 2007) (observing that "the courts that have considered the issue are virtually unanimous in holding that '[a] plaintiff's right of voluntary dismissal under Rule 41(a)(1) is not terminated by the filing of a Rule 12 motion to dismiss by the defendant'"); 9 CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE & PROCEDURE § 2363 (3d ed. 2012) ("it [is] clear that a

Accordingly, pursuant to Fed.R.Civ.P. 41(a)(1)(A)(i), Plaintiff hereby files his notice with the Court voluntarily dismissing Counts III and IV of the amended complaint (ECF No. 6) against Defendants Mark Dantonio and Bill Beekman ONLY. Pursuant to Fed.R.Civ.P. 41(a)(1)(B), the voluntary dismissal of Counts III and IV of the amended complaint (ECF No. 6) against Defendants Mark Danotnio and Bill Beekman ONLY shall be WITHOUT prejudice.

Thus, “[s]ince a Rule 41(a)(1) notice is self-effecuating, leaving no basis upon which a District Court can prevent such a dismissal, we therefore conclude that plaintiffs’ cases were necessarily dismissed without prejudice, effective immediately upon their filing of the notices.” *Aamot v Kassel*, 1 F.3d 441, 445 (6th Cir. 1993).

Dated: February 17, 2021

Respectfully submitted,

/s/ ANDREW A. PATERSON

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motion to dismiss under Rule 12 does not terminate the right of dismissal by notice”).

CERTIFICATE OF SERVICE

I, ANDREW A. PATERSON, certify that the foregoing document(s) was filed and served via the Court's electronic case filing and noticing system (ECF) this 17th day of February, 2021, which will automatically send notification of such filing to all attorneys and parties of record registered electronically.

Respectfully submitted,

/s/ ANDREW A. PATERSON
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